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October 1, 2012

Corbin Davis  
Clerk  
Michigan Supreme Court  
PO Box 30052  
Lansing, MI 48909

***Filed via E-mail to:***  
***MSC\_clerk@courts.mi.gov***

Re: ADM File No. 2011-14

Dear Mr. Davis:

I am submitting comments in the matter of ADM File No. 2011-14.

As a professional process server, I support the spirit of the court's proposed rule in this matter but it is not adequate to solve the problem of inadequate diligent inquiry on the part of litigants when applying for alternate service of process orders.

The term "online search" is nebulous at best. What is this? Is it a search of a law firm's internal database? Google? Bing? eBay? Autotrader.com? Craigslist.com? What about searchable "adult" websites like Pornhub.com, Swingers.com or AdultFriendFinder.com?

Using the definition of "online search," all the above would qualify.

I use Internet accessible databases multiple times daily to locate defendants and witnesses for service of process. It is important for the Court to understand that it not the fact of searching online that is important, ***it is the type of database searched that is most important to produce results usable for service of process.***

I can tell you from years of first-hand experience that the overwhelming majority of consumer-accessible "people locator" databases on the Internet – popular brand names like Intellius, MyLife, Peoplefinders, Spokeo, Veromi, etc. – are of extremely limited value in locating defendants for service of process.

This is because (a) the information on these sites is frequently stale and is often years out of date, and (b) many of these sites do not collect data from some of the most important sources – credit reports, court records, voter registrations, drivers license records, motor vehicle licensing records, public utility records and US Postal Service change-of-address records.

I submit that the Court needs to require not “online search” but something far more specific and relevant as follows:

*“For purposes of this rule, “diligent inquiry” shall include a search of an online INDIVIDUAL REFERENCE SERVICE.”*

Individual Reference Services, as they are known in the investigative and legal industries, are specialized electronic databases that contain detailed information on individuals such as address histories, motor vehicle registrations, voter registration records, real estate purchases, etc. The information in these databases is usually both timely and accurate, in part because free-market competitive pressures require the data vendors to keep on their toes and keep their databases continually updated.

Because of the sensitive personal information contained in Individual Reference Service databases, they are not available to the general public. Access is restricted to credentialed attorneys, private investigators, process servers and law enforcement. A site inspection by an independent investigator is often necessary prior to obtaining service, and information usage is strictly audited by the database companies. Noncompliance with privacy and usage contractual terms often results in termination of service and civil litigation for breach of contract.

Some of the better known products in this area include:

<b>CLEAR</b>	<a href="https://clear.thomsonreuters.com/">https://clear.thomsonreuters.com/</a>
<b>IRBsearch</b>	<a href="http://www.irbsearch.com">www.irbsearch.com</a>
<b>Lexis/Nexis Accurint</b>	<a href="http://www.accurint.com">www.accurint.com</a>
<b>LocatePlus</b>	<a href="http://www.locateplus.com">www.locateplus.com</a>
<b>MasterFiles</b>	<a href="http://www.masterfiles.com">www.masterfiles.com</a>
<b>Merlin Peoplefinders Unlimited</b>	<a href="http://www.merlindata.com">www.merlindata.com</a>
<b>Tracersinfo</b>	<a href="http://www.tracersinfo.com">www.tracersinfo.com</a>
<b>TLOxp</b>	<a href="http://www.tlo.com">www.tlo.com</a>
<b>Westlaw Peoplemap</b>	<a href="http://store.westlaw.com/peoplemap">http://store.westlaw.com/peoplemap</a>


Some of these services, such as LexisNexis Accurint or Westlaw Peoplemap, can be expensive with reports ranging from \$5 to \$50. However, most others such as TLOxp, Tracersinfo, and Merlin – provide accurate and updated information for as little as 25 cents per search.

In my work as a process server in Michigan, I have worked with hundreds of attorneys across the state. I have been surprised by how few – outside of the collection bar – use these digital power tools.

In some cases it is because of computer illiteracy, but more often it is because of reluctance by attorneys and their clients to spend money on a search. This is especially true with banks and insurance company plaintiffs. I have on many occasions dealt with financial institution clients who have dropped debt collection cases involving in tens of thousands in dollars of bad debt claims rather than spend \$20 or less on a database search to locate the defendant for service of process.

I suggest that the Court amend its rules to require the use – by attorneys, not the lay public – of Individual Reference Service searches, not just generic “online” searches. I also submit that the Court needs to go further and require litigants to demonstrate that they have checked two or more information sources such as Michigan Secretary of State Driver’s license and motor vehicle records, voter registration rolls, and local real estate records as part of a diligent search effort.

Sincerely,

A handwritten signature in black ink, appearing to be "R. J. [unclear]", with a large, sweeping flourish at the end.